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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,028	08/26/2003	Jesse Lee Pfohl	16465-US	3488

7590 12/10/2004

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EXAMINER

LERNER, AVRAHAM H

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,028

Applicant(s)

PFOHL ET AL.

Examiner

Avraham Lerner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9, 10, 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>1204</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 5, 6, 8, 11, 15, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clare et al. (U.S. Patent Application Publication No. 2001/0038218 A1) in view of Yukuta et al. (U.S. Patent No. 4,303,755).

Clare et al. discloses a vehicle comprising all elements as claimed, including a frame, ground engaging wheels; an integrated fuel tank (169) including a filler tube (168) and a “counterweight” (rear portion of the vehicle/frame), as broadly recited, having a complementary portion (see especially Fig. 15) with a hole of sufficient size to allow passage of the filler tube, the tank and counterweight being arranged to allow the filler tube to pass through and be surrounded by the complementary portion; a hinged door (168’) forming a part of the complementary portion of the counterweight, and wherein the hinged door has a shape that conforms to a shape of adjacent portions of the counterweight when the hinged door is in a closed position, as is customary in the art of vehicle fuel doors. Clare et al. does not explicitly teach the filler tube and fuel tank “being” one piece, as best understood to mean that the two pieces are manufactured as one and have no seals, connections, or joints therebetween, and as recited in claims 8 and 18, being made of molded plastic.

Yukuta et al. discloses that it is known in the art to provide an integrated fuel tank with a fuel tank (1) and filler tube (2) being one piece of molded plastic.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the integrated fuel tank of Clare et al. with the one-piece molded plastic structure of Yukuta et al. in order to provide a lightweight and structurally safe fuel tank assembly. As specifically taught by Yukuta et al., utilizing a tank structure as taught would “prevent occurrence of explosive fire owing to instantaneous scattering of a liquid fuel in the case of collision of car or breakage of tank” and therefore would have been obvious to one of ordinary skill.

3. Claims 2-4, 7, 12-14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clare et al. and Yukuta et al. as applied to claims 1 and 11 above, and further in view of Gaisford et al. (U.S. Patent No. 5,673,940).

Clare et al. discloses a vehicle having all elements as claimed as recited above in detail except for explicitly disclosing that the fuel tank is supported by a metal cradle which holds the tank in place.

Gaisford et al. discloses that it is known in the art to provide a vehicle with a metal cradle supporting and surrounding lower portions of a fuel tank.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fuel tank of Clare et al. and Yukuta et al. with a cradle as taught by Gaisford et al. in order to ensure that the fuel tank is strongly and securely supported. Such a modification would have provided the vehicle with a known reliable means of securing a

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fuel tank, improving the safety of the vehicle, and therefore would have been obvious to one of ordinary skill.

Allowable Subject Matter

4. Claims 9, 10, 19, and 20 are allowed.

Response to Arguments

5. Applicant's arguments with respect to claims 1 and 11 have been considered but are moot in view of the new grounds of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avraham Lerner whose telephone number is (703) 308-0423.

The examiner can normally be reached on M-F (8:15-5:45) first Wednesday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AVRAHAM LERNER
PRIMARY EXAMINER

A. Lerner 12/6/04

December 6, 2004